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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,853	10/16/2003	Robert P. Cozier	100110609-1	1734

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

HENN, TIMOTHY J

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/686,853	Applicant(s) COZIER ET AL.	
	Examiner Timothy J. Henn	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 26 April 2007. These drawings are accepted.

Response to Arguments

2. Applicant's arguments filed 26 April 2007 have been fully considered but they are not persuasive.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Applicant argues that it would not be desirable to incorporate a menu into the camera system of Newman simply because Newman does not disclose a menu. However, the examiner can not agree with Applicant on this reasoning. The examiner notes that not disclosing a particular feature when a patents invention is not directly concerned with that feature does not mean that the inclusion of that feature is not desirable. For example, the present applicant does not disclose the use of focus or exposure systems. However, this does not necessarily mean that Applicant's are stating that the use of focus and exposure systems are not desirable in a camera. It is further noted that teachings can be explicit

or implicit in a reference. One of ordinary skill in the art looking at the Kawamura reference would realize that the inclusion of such a menu can be beneficial to allow a user to control the camera by selecting one of a plurality of tasks displayed on a display device. Furthermore, one looking at Anderson would realize that it would be beneficial to allow the user to create custom tasks for inclusion in the menu. Therefore, it is believed that proper motivation exists for including a customized menu in the camera of Newman, even though Newman does not disclose the use of such a menu. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

4. Applicant further argues that a visually impaired user would have difficulty in locating or identifying text to select. However, Newman specifically discloses that the system described aids partially sighted people, therefore it is unclear why one of ordinary skill in the art would be lead to think that partially sighted people would "have difficulty in locating or identifying the text" to the extent that such a system should not be used for aiding partially sighted people. The examiner notes that even if a fully blind individual with no capability of visually recognizing the text were to use the camera described by the combination of Newman, Kawamura, Anderson and Sinclair, the user would still benefit by being able to select areas of the screen systematically or at random and receive a text to speech readout from the camera of the selected text. In

this manner, the user would be able to use the camera by relying on the text to speech readout to verify that the correct option was selected.

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman et al. (US 6,473,523) in view of Kawamura et al. (US 6,522,354) in view of Anderson et al. (US 6,636,259) in view of Sinclair et al. (US 2004/0070612).

[claim 1]

Regarding claim 1, Newman discloses a camera comprising: a display (Figure 1, Item 4) and an apparatus which provides speaking capabilities (c. 9, ll. 26-37).

However, Newman does not disclose a menu as claimed.

Kawamura discloses a camera system which includes a menu displayed on the display comprising a plurality of selectable items that correspond to a selected tasks (Figure 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a menu as described in Kawamura to provide user access to a plurality of tasks which the user may select. However, Kawamura does not disclose a menu which is customizable as claimed.

Anderson discloses a camera system which includes a menu including a number of tasks which the user is able to perform (Figure 5). The menu of Anderson is customizable via "action lists" to allow the user to add custom actions as necessary (c. 8, l. 44 - c. 9, l. 18). The customizable menu of Anderson further includes "customized descriptors" associated with each task (i.e. Figure 5, "Send to Mom", "Print Images 3x5", etc) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the menu of Newman in view of Kawamura customizable to allow the user to add new actions as necessary. However, Newman in view of Kawamura in view of Anderson does not disclose speaking the custom descriptor for a selected item.

However, it is noted that Newman discloses the use of the camera by partially sighted people (c. 9, l. 26-37). Sinclair discloses that the use of "screen reader" systems in a user interface to speak information about a selected item of the interface

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for users with visual impairment are indispensable and allow the user to operate the device (e.g. Paragraphs 0003-0005, 0024-0025). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the speaking capabilities of the camera of Newman as a "screen reader" to speak information relating to the selected menu item in the menu of Kawamura in view of Anderson in order to allow partially sighted/visually impaired users to easily operate the camera device.

[claim 2]

Regarding claim 2, Kawamura and Anderson both disclose menu systems in which a selected menu item causes the selected task to be performed on an external device in a preprogrammed manner (e.g. storing images in an external system, printing the images, etc.; Kawamura, Figure 5; Anderson, Figure 5).

[claim 3]

Regarding claim 3, Newman discloses a digital camera (Figures 1 and 2; c. 3, ll. 19-64).

[claim 4]

Regarding claim 4, Anderson discloses tasks such as printing (Figure 5, "Print Images), e-mailing (c. 9, ll. 10-18), archiving and downloading data from the camera (e.g. Figure 5, "Save in MyShoeBox").

[claim 5]

Regarding claim 5, Anderson discloses an external device which is a printer (i.e. printing the images, Figure 5, "Print Images").

[claim 6]

Regarding claim 6, Anderson discloses an external device which is a computer (i.e. server; Figure 1, Item 18).

[claim 7]

Regarding claim 7, Kawamura discloses a selectable item which comprise icons (Figure 5).

[claim 8]

Regarding claim 8, Kawamura discloses selectable items which comprise text.

[claim 9]

Regarding claim 9, Kawamura discloses selectable items which are displayed on the display (Figure 5).

[claim 10]

Claim 10 contains the limitations of claims 1 and 2. Therefore, claim 10 is analyzed and rejected as previously discussed with respect to claims 1 and 2.

[claims 11-17]

Regarding claims 11-17, see claims 3-9.

[claims 18-26]

Claims 18-26 are method claims corresponding to apparatus claims 1-9. Therefore, claims 18-26 are analyzed and rejected as previously discussed with respect

to claims 1 and 2.

[claim 27 and 28]

Regarding claims 27 and 28, see claim 1.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Henn whose telephone number is (571) 272-7310. The examiner can normally be reached on M-F 11-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJH
7/3/2007



LIN YE
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